



Entered on Docket
January 04, 2008

A handwritten signature in dark ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

LEWIS AND ROCA LLP

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No. BK-S-06-10725 LBR

Date: December 20, 2007
Time: 9:30 a.m

Affecting:

☐ All Cases

or Only:

- ☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

**ORDER SUSTAINING SIXTH OMNIBUS OBJECTION
OF THE USACM LIQUIDATING TRUST TO CLAIMS FOR LACK OF
DOCUMENTATION EXCEPT AS TO PROOF OF CLAIM NO. 10725-01167
FILED BY BARRY J. & PATRICIA B. GOLDSTEIN, PROOF OF CLAIM 10725-
01168 FILED BY CAPITAL MORTGAGE INVESTORS, INC., PROOF OF
CLAIM 10725-01246 FILED BY JOHN E. & SHARON M. MCKENNON, PROOF
OF CLAIM 10725-01408 FILED BY ALEXANDER IND & AS TRUSTEES,
STANLEY & FLORENCE, PROOF OF CLAIM 10725-1411 FILED BY
BOSWORTH 1988 TRUST AND PROOF OF CLAIM 10725-01430 FILED BY
HANS J. PRAKELT**

The USACM Liquidating Trust (the "USACM Trust") filed its Fifth Omnibus Objection to Claims for Lack of Documentation [DE 5367] (the "Objection") on November 19, 2007. Appropriate notice of the Objection was given. Responses to the Objection were raised as follows:

- On December 13, 2007, Capital Mortgage Investors, Inc., Barry J. and Patricia B. Goldstein filed a Response to the Objection [DE 5484] and provided documentation for Proof of Claim Nos. 10725-00167 and 10725-01168. Upon being provided documentation, the USACM Trust agreed to withdraw the Objection to those claims and a Stipulation withdrawing the objection as to those claims was filed with the Court on December 19, 2007 [DE 5545]. Accordingly, those claims are not included in Exhibit A attached and are not affected by this Order.
- On December 6, 2007, John E. and Sharon M. McKennon provided documentation to support Proof of Claim No. 10725-01246. Upon being provided documentation, the USACM Trust withdrew the Objection as to that claim on December 19, 2007 [DE 5506]. Accordingly, the McKennons' claim is not included in Exhibit A attached to this Order and is not affected by this Order.
- On December 4, 2007, Alexander IND & Trustees, Stanley & Florence provided documentation to support Proof of Claim No. 10725-01408. Upon being provided documentation, the USACM Trust withdrew the Objection as to that claim on December 19, 2007 [DE 5508]. Accordingly, the Alexanders' claim is not included in Exhibit A attached and is not affected by this Order.

- On December 4, 2007, Bosworth 1988 Trust (“Bosworth Trust”) provided documentation to support Proof of Claim No. 10725-01411. Upon being provided documentation, the USACM Trust withdrew the Objection on December 19, 2007 [DE 5510]. Accordingly, the Bosworth Trust’s claim is not included in Exhibit A attached and is not affected by this Order.

- On December 4, 2007, Hans J. Prakelt (“Prakelt”) provided documentation to support Proof of Claim 10725-01430. Upon being provided documentation, the USACM Trust withdrew the Objection on December 19, 2007 [DE 5509]. Accordingly, Prakelt’s claim is not included in Exhibit A attached and is not affected by this Order.

No other responses were received by USACM Trust counsel or filed with this Court. The Objection came before the Court for hearing on December 20, 2007 at 9:30 a.m. Good cause appearing, it is

ORDERED:

- Sustaining the USACM Trust’s Sixth Omnibus Objection to Claims for Lack of Documentation except to the extent the USACM Trust has withdrawn that objection; and

- Disallowing the Proofs of Claim listed on the attached Exhibit A without prejudice to any rights the claimants listed in Exhibit A may have as Direct Lenders in a particular loan.

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PREPARED AND SUBMITTED:

LEWIS AND ROCA LLP

By: /s/ RC (#0006593)
Susan M. Freeman
Rob Charles
Attorneys for USACM Liquidating Trust

1 APPROVED:

2 OFFICE OF THE U.S. TRUSTEE

3 
4

5 August B. Landis, Esq.
6 Scott A. Farrow, Esq.
7 300 Las Vegas Boulevard, Suite 4300
8 Las Vegas, NV 89101

9 In accordance with Local Rule 9021, the undersigned certifies:

- 10 ☐ The Court waived the requirements of LR 9021.
- 11 ☒ I have delivered a copy of this proposed order to all attorneys and unrepresented
12 parties who have appeared at the hearing regarding this matter and/or who filed
13 a written objection and each has:
- 14 ☒ approved the form of this order;
- 15 ☐ waived the right to review the order;
- 16 ☐ failed to file and serve papers in accordance with LR 9021(c); and/or
- 17 ☐ failed to sign and return this proposed order within five (5) business days
18 in accordance with LR 9021(b).
- 19 ☐ I have delivered a copy of this proposed order to all attorneys and unrepresented
20 parties who appeared at the hearing regarding this matter and/or who filed a
21 written objection and all have either approved the form of this order, waived the
22 right to review the order, failed to file and serve papers in accordance with LR
23 9021(c) and the following have disapproved the form of the order.
- 24 ☐ No opposition was filed and no other party or counsel appeared at the hearing.

25 LEWIS AND ROCA LLP

26 By: /s/ RC (#0006593)

Susan M. Freeman
Rob Charles

Attorneys for USACM Liquidating Trust

**ORDER SUSTAINING SIXTH OMNIBUS
OBJECTION OF USACM LIQUIDATING TRUST TO
PROOFS OF CLAIM FOR LACK OF
DOCUMENTATION
BK-S-06-10725-LBR**

<u>Creditor Name</u>	<u>Claim No.</u>	<u>Date Filed.</u>	<u>Amount</u>
Clark, Johnny c/o William L. McGimsey, Esq. 516 S. Sixth Street, Suite 300 Las Vegas, Nevada 89101	10725-01304	11/13/06	\$99,467.90
McGimsey, Sharon or Jerry c/o William L. McGimsey, Esq. 516 S. Sixth Street, Suite 300 Las Vegas, Nevada 89101	10725-01306	11/13/06	\$311,091.58
McGimsey, Bruce c/o William L. McGimsey, Esq. 516 S. Sixth Street, Suite 300 Las Vegas, Nevada 89101	10725-01307	11/13/06	\$86,171.22
Margaret B. McGimsey Trust c/o William L. McGimsey, Esq. 516 S. Sixth Street, Suite 300 Las Vegas, Nevada 89101	10725-01315	11/13/06	\$96,095.75

EXHIBIT A